IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,
THE CHIEF JUSTICE
and
THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO : 4850 of 1998

Between:
Guntur City Municipal Rate Payers Association
Guntur (Regd. No.19/1955) represented by its
General Secretary, M.L. Kantha Rao.

..... PETITIONER

AND

1. State of A.P. represented by its Secretary, Municipal Administration, Secretariat Buildings, Hyderabad.
2 Municipal Corporation, Guntur, represented by its Commissioner.
3 Municipal Corporation, Guntur, represented by its Chairman.
4 Vijayawada -Guntur-Tenali Urban Development Authority, Represented by its Secretary, Vijayawada.

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ , direction or order preferably in the nature of mandamus declaring the order passed by the Govt No.521 viz., by the 1st respondent, which has not been mentioned in the tender and as the consequential tender notice published by the 2nd respondent in Tender notice No.E.T.No.49/97-98 dated 31-12-1997 as

being violative of Arts .14, 21 and 19 (1) (b) and also Arts .47 and 48-A of the constitution and also being violative of bye -laws for regulating the use of park , garden , parking places , play grounds , Rule 3 of the said bye-law of 1968 and also the provisions of sec . 4 (k) of A.P. Town Planning Act, 1920 and also provisions of A.P Urban Areas Development Act, 1978 and forbid the respondents 2 and 3 from proceeding in any manner in pursuance of the construction of shopping complex in Swaraj Maidan as mentioned in the above said Tender notices ; and pass such further order or orders as this Hon'ble Court may deem fit and proper.

For the Petitioner: None present.

For the Respondents: None present.

The Court Made the Following :

ORAL ORDER: (per The Honourable Sri Devinder Gupta, the Chief Justice)

When the Petition is taken up for hearing, nobody has put in appearance. This Writ Petition has been filed by the Guntur City Municipal Rate Payers' Association, Guntur, questioning the action of the respondents in converting a portion of the public park, Guntur Municipal town, into a shopping complex.

The park, known as Swaraj Maidan, is in existence for the last about 70 years. It comprises of Gandhi Park, which was being used from pre-independent days, having an area of approximately 90,000 sq. ft.. An area of 13,000 sq. ft. has been utilized for the construction of a theatre for children. When remaining part of the area was sought to be used for construction of market in order to generate more finances for Guntur Munciipality, this Petition was filed and interim orders were obtained, and, on 26.6.1998, the Court declined to vacate the stay order in view of the ratio in the decision of the Supreme Court in **G.N.Khajuria v. D.D.A. & Ors.**[1]**.** The stay has been continued to remain till date.

In such like matters of public interest, it has now been settled that area, which is reserved for park, cannot be permitted to be changed into a different nature either by way of construction of market or otherwise, even, in the garb of generating more funds. There is no change brought on record as regards other use of this land in any master plan. In these circumstances, following the decision of the Supreme Court, we dispose of this Writ Petition, with direction to the respondents that park shall not be converted for construction of any buildings, thereby, changing the nature of the park to any other purpose. Ordered accordingly.

The Writ Petition stands disposed of. No costs.

_____

DEVINDER GUPTA, C.J.

25.6.2004.

_____

G.ROHINI, J.

VR.

To
1. The Secretary to Government, Govt. of A.P.
Municipal Administration, Secretariat Buildings,
Hyderabad.
2. The Commissioner, Municipal Corporation, Guntur.
3. The Chairman, Municipal Corporation, Guntur.
4. The Secretary, Vijayawada-Guntur-Tenali Urban Development Authority, Vijayawada.
5. Two CD copies.
6. Two CCs to Govt. Pleader for Municipal Admn., High Court Bldgs., Hyderabad.

---

[1] JT 1996(4) SC 7